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<b>Item:</b>	<b>10.7</b>	<b>Ref: AINT/2021/27273</b>
<b>Title:</b>	<b>Appointment of NSW Public Works Advisory to project manage the NSW DPIE Public Spaces Legacy project - Armidale Creeklands Restoration</b>	<b>Container: ARC21/4635</b>
<b>Responsible Officer</b>	<b>General Manager</b>	
<b>Author:</b>	<b>Scot MacDonald, Director Businesses and Services</b>	
<b>Attachments:</b>	1. Dumaresq Creek Rehabilitation stage 1 Work Plan 2. Dumaresq Creek Rehab PWA Fee Proposal- ( <b><i>General Manager's Note: The report considers the Fee proposal and is deemed confidential under Section 10A(2)(d) of the Local Government Act 1993, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.</i></b> )	

### 1. Purpose

The purpose of this report is to seek approval from Council to accept the Fee proposal from NSW Public Works Advisory and appoint PWA to project manage the NSW DPIE Public Spaces Legacy nominated project – Armidale Creek lands Restoration.

Council is being asked to consider the Fee Estimate from Public Works Advisory in a confidential session the Ordinary Council Meeting given the commercially sensitive aspect of the information.

### 2. OFFICERS' RECOMMENDATION:

That Council

- a. Invoke Section 55(3)(g) of the Local Government Act for the purpose of engaging Public Works Advisory under a procurement exemption as they are registered under a NSW State Government Buying Scheme.
- b. Accept the fee estimate tabled in the attachment from NSW Public Works Advisory for project management and contract administration of the Public Spaces Legacy nominated project – Armidale Creek lands Restoration.
- c. Appoint Public Works Advisory as Project Manager and manage the contract administration of the Armidale Creek lands Restoration project in accordance with the fee proposal provided.
- d. Delegate to the General Manager the authority to approve variations to the approved fee to a maximum of 25%.

### 3. Background

In 2020, Armidale Regional Council was invited to nominate eligible projects in the NSW DPIE Public Spaces Legacy program to a value of \$3,000,000.

Council's proposed project(s) could only be considered if it accelerated its Development Assessment time frames by 18%; resolved two outstanding rezoning's and finalised the LSPS. These criteria were met including a 50% reduction in time for DA determinations.

After considering four potential projects, Council proposed to commit to one project, being the Dumaresq Creek restoration and activation in the 'Family Precinct'. NSW DPIE Public Spaces Legacy program describes this project as the 'Armidale Creek lands Restoration'.

See Armidale Regional Council motion 121/21 24 March 2021

"That Council note the NSW Public Spaces Legacy Program update report including the revised project proposals that have been rationalised into one project which is the first stage of the Armidale Creek lands Masterplan."

#### **4. Discussion**

Armidale Regional Council received an executed Funding Deed from the NSW Government on 3 June 2021 for the Armidale Creek lands Restoration project.

This project is fully funded by the NSW Government. It is not anticipated Council will have any expenditure and no Council funds have been allocated in the 2021-2022 Operational Budget. The proposed project manager has been advised the project must be scoped and costed to remain within the \$3,000,000 external funding.

A 35% contingency was included in the concept budget given the known presence of soil contaminants east of the area to be restored. The project area has been surveyed and there is low levels of contaminants, however it was considered prudent to incorporate a 35% allowance for unplanned soil remediation and waste disposal expenses. As is normal in project management, this contingency can be reduced as the project progresses and the level of uncertainty drops.

The Roads and Parks staff have considered the most appropriate procurement strategy for project management. This recommendation is based on the imperative to deliver the project in a timely manner; capacity of the Parks team to prepare and assess a Tender for project management; reasonableness of the Fee Estimate and skills of the PWA project team.

PWA is accredited under the NSW Government Agency Accreditation Scheme for Construction to manage the planning and delivery phases of construction and capital works procurement. In compliance to the *Local Government Act 1993*, PWA is registered Under the NSW State Government Buying Scheme "Consultants in Construction up to \$9M Scheme" Scheme number, as a pre-qualified Supplier (<https://buy.nsw.gov.au/schemes/consultants-in-construction-scheme>).

As a result, Council can access Pre-qualified Contractors in this arrangement as it qualifies as an exception under the Local Government Act, and in this occasion, presents time and efficiency savings by direct appointment and other benefits from direct appointment of a specialist government service in expert oversight and management of these projects.

Key costs and schedules of rates are highlighted and have been identified to be managed with within the budget perimeters and funding provisions for this project.

#### Local Government Act Compliance

Section 55(3) of the Act provides a number of exemptions from the need for councils to invite tenders in particular:

- (g) Contracts for the purchase of goods or services specified by the NSW Procurement Board or the Department of Administrative Services of the Commonwealth.

Selecting the appropriate procurement method will assist in obtaining the best value for money and managing procurement risk. It will make effective use of both government and private

sector resources and consider critical factors such as: Value for Money, Expertise in Project Management, Designing and Construction Program and Quality in Construction.

Additionally, Council has considered the specialised nature of the consultancy and the timelines of the deed agreement to whether any benefit from the additional costs and timing of tendering can be obtained compared to the proposed appointment of PWA.

A preliminary project timeline is provided in the attachments.

Council does not anticipate any significant impact on its existing works program in the delivery of this project.

The project includes a small amount of Park furniture and pathways and therefore immaterial depreciation or whole of life costs. The expenditure is focussed on natural features including the creek and the riparian zone.

## 5. Implications

### 5.1. Strategic and Policy Implications

Armidale Regional Council's Community Strategic Plan 2017-2027

Environment and Infrastructure

Community Outcome 1: Maintain and improve local waterways, lagoons and creek lands in partnership with community groups and other agencies

### 5.2. Risk

**Financial Risk** – Undertaking this project carries a financial risk of exceeding the project budget of \$3,000,000. This project is 100% externally funded and no provision has been made to provide Council funding or resources. To mitigate this risk, Council -

- a) Included a 35% contingency in the concept planning, scoping and budget.
- b) Advised the proposed project manager there is no provision for supplementary funding from Council.
- c) Will require the Project Manager to report regularly including project progress and expenditure and confirm there will be no variations without prior approval.

**Environmental Risk** – this project is upstream of the former Armidale gasworks and known hydrocarbon contamination sites, however there are uncertainties and disturbance of the creek and land adjacent to Dumaresq Creek could expose and mobilise soil contaminants. This risk will be mitigated by designing the project cognisant of the soil contamination study; requiring any civil works to be undertaken recognising contaminants could be exposed; requiring work to be stopped immediately if contaminants are observed or smelt; in the event of detecting suspected pollutants amend the project design to avoid further contact or disturbance of soil contaminants.

### 5.3. Sustainability

One of the aims of this project is to improve the environmental values of Dumaresq Creek and the riparian zone. By improving the ecology of the waterway and adjoining environment, Council aims to improve the sustainability of the area.

This will be achieved with restoration of biodiversity and improvements in stream flow in this section of the Creek. The outcomes and experiences of this project is expected to inform Council and the community how to plan and fund further creek restoration and sustainability initiatives.

#### 5.4. Financial

Budget Area:	Parks						
Funding Source:	NSW Government DPIE Public Spaces Legacy Program (100% externally funded)						
Budget Ref: (PN)	Description	Proposed Budget adjustment	Actual	Committed	Proposed	Total Forecast Revenue/ Expenditure	Remaining Budget
FY2022 Q1 Budget Adjustment (272049)	Armidale Creeklands	\$500,000 Revenue \$500,000 Expenditure	0	0	\$500,000 Revenue \$500,000 Expenditure	\$500,000 Revenue \$500,000 Expenditure	N/A
FY2023 Budget (272049)	Armidale Creeklands	\$2,500,000 Revenue \$2,500,000 Expenditure	0	0	\$2,500,000 Revenue \$2,500,000 Expenditure	\$2,500,000 Revenue \$2,500,000 Expenditure	N/A

This project is fully funded through the NSW Government Department of Planning Public Spaces Legacy Program. It is expected to spend \$500,000 in 2021-2022 and the balance of \$2,500,000 in 2022-2023. The proposed income and expenditure will be included in the Q1 Budget review for the FY2022 year and the remaining balance of \$2,500,000 of income and expenditure will be included in the FY2023 Budget.

Public Works Advisory will be under direction not to exceed the budget. The concept scope included a contingency over \$1million or 35%.

Council staff have been involved in the grant application; acceleration of Planning performance; scoping; reporting to the Public Spaces Legacy unit and negotiations with Public Works Advisory.

It is anticipated once the Program Manager is appointed and the project commences, Council officers will continue to have input through their participation in a Project Control Group, but Council resources will be limited to advisory; approval of contracts; controls around the project site once it commences and Communications in collaboration with NSW Department of Planning.

The major financial risk is the detection and response to soil contamination. If there is significant remediation required there may be unanticipated costs. This risk is managed by designing the project to account for suspected contamination sites and direction to re-scope the project to accommodate any additional costs and remain within the \$3,000,000 budget.

#### 6. Consultation and Communication

The community was consulted in the preparation of the Armidale Creek lands Masterplan that was adopted by Council in August 2020

<https://www.armidaleregional.nsw.gov.au/search.aspx?moduleid=13&multisite=false&keywords=armidale%20creeklands%20masterplan%20>

The project manager will be expected to develop a Communications Plan in consultation with Council to inform the community about project delivery. Council is bound by the NSW Government's DPIE Public Spaces Legacy Program guidelines which require Council to seek approval of any proposed communications.

## **7. Conclusion**

Council met the NSW Department of Planning criteria to improve its Planning approval timelines and subsequently received approval for its nominated project in the Public Spaces Legacy program.

Council officers are proposing NSW Public Works Advisory be directly appointed to project manage the \$3,000,000 Armidale Creek lands Restoration project. This project focuses on rehabilitation of Dumaresq Creek behind the Monkton Aquatic Centre. The project aims to restore natural values of the creek; improve amenity and connectivity in the Family Precinct including to the CBD.

PWA prepared a Fee Estimate. Council staff propose the estimate is reasonable and PWA be appointed to manage the project given the need to commence work as quickly as possible; their staff are experienced in similar projects and direct appointment is an efficient method to manage this project.